

## Introduction

# About This Book

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### **Why schedules?**

We have created these schedules to help you fulfill your recordkeeping responsibilities. Records retention and disposition schedules help you manage your records systematically by specifying how long, where, and in what format they will be kept and what their final disposition will be.

The Local Government Records Committee, with help from local records custodians, appraised the records and prepared the records retention and disposition schedules. The scheduling process is ongoing and involves close cooperation among local records custodians, local government officials, and state government agencies whose policies and procedures affect local government records or who have the expertise to provide valuable assistance. If you have suggestions to make about the schedules—changes, additions, questions—please contact the Local Government Records Committee.

### **What schedules include**

Every record series listed on a schedule includes a title (and variant titles if needed for identification), a brief description of the record series' function and its contents (if necessary), a retention period (the length of time the record must be maintained), and a final disposition.

General schedules are designed for categories of records that many offices have in common, for example, correspondence and subject files. The Local Government Records Committee also produces specific schedules designed for specific offices.

### **Related schedules**

Records relating to your function may exist in other offices. For example, records may be maintained in any number of county offices or state agencies. Records in other offices may have different retention requirements—and therefore different retention periods—than the same records kept in your office.

Many times, duplicate documents have a shorter life span than the “record” copy or official copy of a document. The “owner” of the record has the “record” copy and any other copy may be considered a duplicate copy. Any record with a “permanent” retention should be considered the “record” copy.

### **Records not listed in this schedule**

Local government offices may still have records that are no longer created and do not conform to the record types listed in this schedule. To prevent the accidental destruction of historically-significant records, please notify the Local Government Records Committee before destroying or otherwise disposing of records that may not appear in this schedule.

# Authority

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**2-6-401**

**2-6-402**

**2-6-403**

**M.C.A.**

In 1993 the State Legislature created a Local Government Records Committee to “approve, modify, or disapprove proposals for local government records retention and disposition schedules.” The Committee also can approve or disapprove requests to dispose of or destroy records; establish categories of records for which a disposal request is not required; respond to requests for technical advice on matters relating to local government records; and provide leadership and coordination in matters affecting the records of multiple local governments.

The Committee is composed of the State Archivist, the State Records Manager, an Accounting Systems Fiscal Officer from the Local Government Services Bureau’s Systems Program in the Department of Commerce, plus four appointed local records custodians.

The State Archives also was given authority to accept transfers of records that local governments may no longer have room to store themselves. You may want to consider depositing your records with your local library, museum, or historical society. If you decide to deposit them locally, please contact the State Archivist for a deposit agreement form.

## **Disposition approval**

An important component of any records management program is the disposition of records that have reached their prescribed retention period. The legislation established a Destruction Subcommittee to approve the disposal of local government records. The Subcommittee is composed of the State Archivist and an Accounting Systems Fiscal Officer from the Local Government Services Bureau in the Department of Commerce. The Accounting Systems Fiscal Officer is concerned with records that need to be saved for audit purposes and the State Archivist is interested in preserving records that have ongoing administrative, legal, or research value.

Please see the Appendix for a copy of the “Request and Authorization for Records Disposal” form. It is provided for your convenience, although you may prefer to submit your own computer printout or simply a letter giving the records series title and dates of the records you want to dispose of. The disposal form also includes a “Certification of Destruction,” which provides proof that the records were actually destroyed.

# Definitions

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**Active records** Records frequently referred to and used on a daily, weekly, or monthly basis.

**Administrative records** Records relating to budget, personnel, supply, and similar housekeeping or facilitative functions common to most offices, in contrast to program records.

**Case files** Material related to a specific action, event, person, organization, location, or project. Also known as project files.

**Destruction** Methods of destroying records include:

- burning, pulping, shredding, macerating, burial,
- discarding with other waste materials, and
- selling or salvaging the record medium (e.g., recycling).

**Disposition** Disposition is the actions taken regarding records no longer needed for current government business, including:

- transfer to a storage facility,
- transfer from one department or government entity to another,
- transfer of permanent records to an archives, and
- destruction of temporary records.

**Inactive files** Records infrequently referred to; generally used less than once every three months.

**Local government** As defined in 2-6-401, a local government means:

- any city, town, county, consolidated city-county, or school district;
- any subdivision of an entity named above.

**Non-current records** Records no longer required in the conduct of active business.

**Office of record** Office which maintains the “record” copy of a document.

# Definitions - cont.

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<b>Program records</b>	Records relating to the mission or the unique, substantive functions of an office.
<b>Project files</b>	Material related to a specific action, event, person, organization, location, or project. Also known as case files.
<b>Public records</b>	Quoting from 2-6-401, a public record includes “any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including all copies of the records, <i>regardless of physical form or characteristics</i> , that has been made or received by any local government, in connection with the transaction of official business, and preserved for informational value or as evidence of a transaction and all other records or documents required by law to be filed with or kept by any local government in the state of Montana.”
<b>Reading files</b>	Material, such as correspondence and reference materials, filed in chronological order; generally used for reference and convenience.
<b>Record copy</b>	The “record” copy is the principal copy of any letter or document. Also referred to as the official file copy.
<b>Record series</b>	File units or documents arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular form, or have some other relationship arising out of their creation, receipt, or use. Generally handled as a unit for disposition purposes.
<b>Records schedule</b>	A records schedule—or records retention and disposition schedule—is a document providing minimum periods of time records must be retained and instructions for what to do with records no longer needed for current government business.
<b>Subject files</b>	Material filed by subject, usually in alphabetical order.
<b>Transitory records</b>	Records which do not have value beyond the immediate purpose for which the document is created, such as transmittals and meeting notices.
<b>Vital records</b>	Records that are essential to resume or continue operations during and after an emergency; records necessary to recreate the city’s legal and financial position; and records necessary to preserve the rights and interests of the city, its employees, residents, and other individuals directly affected by the city’s activities.

# Legal Considerations

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## **Destruction of personnel records**

Although the law allows you to destroy employment records 10 years after termination, you should consider keeping employment records from the 1960s and 1970s longer because they may not be available anywhere besides your office.

## **Destruction of certain financial records (20-9-215 versus 27-2-202, M.C.A.)**

Although Section 20-9-215, Montana Code Annotated, provides for a five-year retention for claims, warrants, vouchers, bonds, and receipts, the Montana Local Government Records Committee would have you also look at 27-2-202, M.C.A. This section includes “Time Limits on Specific Kinds of Actions,” and states in part:

- (1) The period prescribed for the commencement of an action upon any contract, obligation, or liability founded upon an instrument in writing is within 8 years.

Because of this, the Montana Local Government Records Committee recommends an “audit + 8 years” retention to meet statute of limitation requirements.

For further help with financial records, contact Lorin E. Flesjer (406-365-6582) or Marlene Hughes (406-444-3010), Local Government Services-Systems, Montana Department of Commerce.

## **Stopping scheduled destruction of records when a law suit is filed**

When a law suit is filed, it is very important that *you* stop the destruction of records that might be pertinent to the law suit, even if the records have already meet their scheduled retention period. If you continue with the destruction, it may *appear* to a judge that you intentionally disposed of records that could be needed in the law suit. If the judge thinks you intentionally destroyed records, your local government entity could be sanctioned.

If your local government is presented with a subpoena:

- Immediately tell your attorney.
- Get an explanation from the attorney about what is involved in the case so you know what records should not be destroyed and so you can help advise the attorney about what records exist.
- Coordinate with your attorney about what records are needed and when.

## Legal Considerations -cont.

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### **Privacy versus the right-to-know**

The Montana Constitution assures citizens of both the right to know (Section 9) and the right to privacy (Section 10). When it comes to public records, these two sections sometimes appear to be in conflict. In addition to the constitutional right to know, MCA 2-6-102 also provides citizens the right to inspect and copy public records. Which is more important, the individual's right to privacy or the right to know?

There is a body of case law where Montana courts have done a balancing act between the two sections and decided which is more important in specific instances. These existing cases can be used to provide guidance. Also, it is sometimes possible to provide the information a citizen seeks without allowing the person to look at the confidential portions of the records. This can be done by looking at the records yourself and providing a verbal response to the citizen, or by photocopying and blocking out the confidential information before allowing the citizen to see the document(s).

When in doubt about whether something is confidential and or whether you have to allow access, consult your attorney.

# General Guidelines

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## **Applying retention periods**

Retention periods assigned to records are minimums. It is not required that records be destroyed or otherwise disposed of at the end of the minimum. Records may always be kept longer, but they cannot be disposed of sooner. The disposition actions of each office should depend upon its own needs and capabilities to keep records.

For local governments that are not required to have an audit, retention periods begin at the end of the fiscal year in which the records are created. For local governments that are required to have an audit, the retention period begins at the end of the fiscal year when the commissioners/council/directors/trustees receive the Final Fiscal Year Audit Report.

## **Microfilming local government records**

The Attorney General has ruled that microforms may be considered as a permanent storage medium for public records. Local governments may keep and preserve public records through the use of microforms (film or fiche) providing the filming, development, and storage of the camera master meet applicable standards. The State Records Management Bureau in the Secretary of State's Office will test and verify that your film meets the national standards established to ensure its readability twenty years from now. Contact them at: Records Management Bureau, P.O. Box 202805, Helena, MT 59620-2805 or phone 406-444-9000.

When deciding whether or not to film, local governments should consider factors such as the retention period of the records to be filmed and the estimated cost of the microfilming. If a microform is chosen as the primary storage medium, the paper records become duplicate records and they may be destroyed without obtaining approval from the Destruction Subcommittee once the film has been verified.

## **Imaging local government records**

The Local Government Records Committee adopted an administrative rule concerning the use of optical imaging for local government records. Optical imaging was designed for fast retrieval by multiple users; it was not designed for long-term storage of records and does not currently meet the requirements for records needing to be stored for ten years or more. For that reason, the following rule is in effect for all local governments:

Electronic records storage systems may be used for the daily management, storage, and retrieval of documents. For records whose retention period is 10 years or more, electronic records storage systems may be used if the records also are maintained in paper form or on archival quality microfilm.

*For the complete text see*  
"Administrative Rules of Montana," 44.14.201-203